IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 5421 of 2007
With
CIVIL APPLICATION No. 15467 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ? YES

2 To be referred to the Reporter or not ? YES

3 Whether their Lordships wish to see the fair copy of the judgment ? NO

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? NO

5 Whether it is to be circulated to the civil judge ? NO

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G.S.R.T.C. & 1 - Appellant(s)
Versus
RAJABHAI RANABHAI VIRDA (FATHER OF DECD.) & 6 - Defendant(s)

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Appearance :
MRS VASAVDATTA BHATT for Appellant(s) : 1 - 2.
None for Respondents : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 20/12/2007

ORAL JUDGMENT

1. Challenging the judgment and award dated

29.9.2006 of Motor Accident Claims Tribunal, Gondal in Claim Case No.1083 of 1999, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), the appellant has called into question the assessment of compensation, alleging that the award of Rs.2,60,000/- was on the higher side. It was submitted by learned counsel Ms.Bhatt that the Claims Tribunal had erred in applying multiplier of 15 after recording the finding that the deceased was aged 40 years at the time of the accident. She relied upon the judgment of Hon'ble Apex Court in **Managing Director, Tamil Nadu State Transport Co. vs. Sripriya and others, {2007 ACJ 1076},** wherein the Hon'ble Apex Court adopted multiplier of 12 while the deceased was aged 37 years.

2. It was seen from the impugned award that the deceased victim of the accident was an agriculturist, having his own land and, in the evidence of his widow, it was claimed that he was earning Rs.4,000/- per month and aged only 30 years. The Tribunal believed the say of the claimants to the extent that he was earning out of his own agricultural operations but, in absence of any concrete evidence about monthly income and age and finding variance in the age mentioned in the application, the affidavit and in the postmortem note, his age was assumed at

the highest to be 40 and his monthly income assumed at the lowest to be Rs.2,000/- per month. Thereafter, applying multiplier of 15 to the multiplicand of Rs.24,000/-, a sum of Rs.3,60,000/- was arrived at, out of which 1/3rd was deducted towards his own expenses. Surprisingly, 1/3rd amount on the same count was even deducted from loss of estate and expenses on obsequies.

3. Having regard to the above facts and the observations made by Hon'ble Apex Court in its recent judgment in **APSRTC, Rep. by its Chief Law Officer vs. M.Pentaiah Chary {2007 AIR SCW 5689},** minimum compensation payable in a case of similar nature should be considered from the point of view of suffering of the victim and the multiplier specified in the Second Schedule to the Act cannot and should not be altered except under strong circumstances. Therefore, there are no good reasons to interfere with the impugned award. In fact there are errors apparent on the record causing reduction from the just amount of the compensation.

4. It may be pertinent to note that, according to the statement made by learned counsel for the appellant, the impugned award dated 29.9.2006 has not been complied with so

far, in violation of statutory provisions of Section 168 of the Act and the present proceedings are initiated in July 2007 by filing an application for condonation of delay. That application for condonation was allowed with a direction to pay cost of Rs.5,000/- in order to afford an opportunity to have the appeal examined on merits. In view of the appeal being found to have no merits requiring summary dismissal, the only purpose which the appellate proceedings appear to have served is that of delaying payment of compensation and deposit of the amount in violation of the statutory provisions. This is a sad and serious state of affairs particularly when a public Corporation running a public utility service indulges in pointless litigation with an ulterior motive of defeating the legal provisions and benefitting the persons other than the claimants or the Corporation itself.

5. Therefore, the appeal is summarily dismissed with direction to transmit the amount of Rs.5,000/-, which is stated to have been deposited pursuant to the order dated 6.12.2007 in Civil Application No.12323 of 2007, to the Claims Tribunal concerned for payment to claimants in addition to the amount awarded by the impugned award. Rs.25,000/- stated to have

been deposited for the purpose of appeal in this Court shall also be transmitted to the Claims Tribunal concerned for the purpose of disbursement in terms of the impugned award.

6. A copy of this order shall be served upon the Chief Secretary of the Government of Gujarat for taking appropriate steps as may be deemed proper in the circumstances of the case, in view of the fact that not only public resources appear to have been wasted in such litigations but public time of the Court also appears to have been wasted, at the cost of justice to genuine litigants who have to wait for years for hearing in the Court. Civil Application for stay does not survive and stands disposed as rejected.

(D.H. Waghela, J.)

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